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FILED

2007 OCT -5 P 3:11a.m.

RICHARD W. WIERKING
CLERK
U.S. DISTRICT COURT

5 Attorney for Plaintiff, MORELLI TAYLOR SPORTFISHING & MARINE
6 SUPPLY, LLC, a California Limited Liability Company d.b.a. LEO'S
SPORTFISHING

8 ·UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

10 MORELLI TAYLOR SPORTFISHING)
11 & MARINE SUPPLY, LLC, a)
California Limited Liability)
12 Company d.b.a. LEO'S)
SPORTFISHING,)

CASE NO: C0704947 HRL

14 Plaintiff,
15 vs.
16 DAN ROBIN CATALANO, an
17 individual, in personam;
18 Unnamed Sailing Vessel,
19 Hull #CFZ0237TC700 &
CF #0237TP, in rem, and
DOES 1-100, inclusive,
Defendants.

DECLARATION OF LEONARDO J.
MORELLI IN OPPOSITION TO
DEFENDANTS' MOTION TO VACATE
ORDER OF ARREST, OR,
ALTERNATIVELY, TO SET THE
AMOUNT OF SECURITY FOR RELEASE
OF THE VESSEL

Date: October 9, 2007
Time: 10:30 a.m.
Courtroom: 2, 5th Floor
Hon. Howard R. Lloyd

22 I, LEONARDO J. MORELLI, declare as follows:

23 I am the managing partner of the Plaintiff in this action. I
24 have personal knowledge of all the facts stated herein and if
25 called as a witness, could and would competently testify to them
26 under oath.

27 1. On or about May 9, 2007, Mr. Catalano hired me to work on
28 the vessel that is the subject of this action

1 2. Mr. Catalano informed me that the vessel was operable.

2 3. Mr. Catalano hired me to customize the vessel to look
3 like a pirate ship.

4 4. My work included installing masts that would accommodate
5 square sails.

6 5. As per Mr. Catalano, the square sails were for show, as
7 the boat would be motored during the cruises.

8 6. Mr. Catalano registered the vessel with the State of
9 California on May 24, 2007. A true and correct copy of the
10 California Registration of the vessel is Exhibit 1.

11 7. Because I had not been paid for my work on the vessel, I
12 took a security interest in the vessel as a lienholder.

13 8. Mr. Catalano claimed he was unable to pay me for my work,
14 I suggested we start a business called Buccaneer Adventures,
15 selling cruises on the vessel in the Santa Cruz Bay.

16 9. A Memorandum of Intent memorializing our proposed
17 business venture is attached as Exhibit 2.

18 10. The vessel was tied up to my dock during the period that
19 I worked on the vessel.

20 11. In early August 2007, after I had spent in excess of
21 \$60,000 customizing the vessel, Mr. Catalano became very
22 argumentative and moved the vessel from my dock.

23 12. I estimate the value of the vessel to be in excess of
24 \$150,000.

25 I declare under penalty of perjury under the laws of the
26 state of California and the United States that the foregoing is
27 true and correct.

28 ////

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2 Dated: October 5, 2007

3
4 NEONARDO J. MORELLI, MANAGING
5 PARTNER MORELLI TAYLOR SPORTFISHING
6 & MARINE SUPPLY, LLC, a California
7 Limited Liability) Company d.b.a.
8 LEO'S SPORTFISHING,
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EXHIBIT 1

ABACUS BERTIE
m 9/26/67
Standard X
963 Docs

JOE'S
COPY

UNDOCUMENTED VESSEL

OWNER/OPERATOR VESSEL			CERTIFICATE OF NUMBER					
BUILDER	YR BUILT	YR MODEL	PURCHASE DATE		CLASS	LENGTH FT-IN		T
SPCNS	1987	0000	04/07/2007		BE	058-07		8
	FUEL	PROP	VESSEL	TYPE	HULL MATL	NO		
	D	A	S	S		NS		
VESSEL USE			DATE ISSUED		CC/ALCO	DT FEE RECVD	PIC	USE TAX
PLEASURE			05/24/07		44	05/24/07	2	468

VALID TO: 12/31/2007
USE CF NUMBER
V1 CF 0237 TP
HULL ID NUMBER
CF20237TC700
STICKER ISSUED
S365759

REGISTERED OWNER

CATALANO DAN ROBIN
1280 GRAHAM HILL RD

AMOUNT PAID
\$ 506.00

SANTA CRUZ

CA 95060

AMOUNT DUE	AMOUNT RECD
\$ 506.00	CASH : CHCK : CRDT : 506.00

LIENHOLDER

MORELLI LEONARDO/
SHIRLEY JOHN
1280 GRAHAM HILL

SANTA CRUZ

CA 95060

FOO 550 24 0050600 0011 CS FOO 052402 V1 CE0237TB Z00

DO NOT DETACH - REGISTERED OWNER INFORMATION

1. RENEWAL OF VESSEL REGISTRATION IS REQUIRED ON OR BEFORE THE EXPIRATION DATE TO AVOID 50% PENALTY. IF YOU DO NOT RECEIVE A BILLING NOTICE, USE THE ATTACHED CERTIFICATE OF NUMBER TO RENEW.
2. THIS CERTIFICATE MUST BE ON BOARD WHENEVER THE VESSEL IS IN OPERATION
3. AN OPERATOR WHO IS INVOLVED IN AN ACCIDENT IS REQUIRED TO REPORT THE ACCIDENT, WHEN THERE IS A DEATH OR DISAPPEARANCE; INJURY REQUIRING TREATMENT BEYOND FIRST AID; PROPERTY DAMAGE OF MORE THAN \$500; OR COMPLETE LOSS OF A VESSEL. TO:

DEPARTMENT OF BOATING AND WATERWAYS
2000 EVERGREEN STREET, SUITE 100
SACRAMENTO, CA 95815-3888

S
304
2711-2405

EXHIBIT 2

ABACUS
Jm 9/20/07
Standard X
Names X
Events X
Docs X

MEMORANDUM

Of INTENT

This Memorandum of Intent is made between Leonardo J. Morelli ('Leo'), Dan Catallano ('Dan') and John Shirley ('John') [hereinafter referred to collectively as 'the parties'], with respect to their intention to create a business entity whose purpose it will be to manage and operate a business venture more fully described below:

THE PARTIES AGREE TO THE FOLLOWING PRELIMINARY BUSINESS PLAN & GENERAL GUIDING PARAMETERS, AS DESCRIBED MORE FULLY BELOW:

1. The parties will form a California limited liability company (the 'LLC') for the purpose of managing and operating a pleasure cruise charter service originating from the Santa Cruz Yacht Harbor, by and through the retail establishment commonly known as 'Leo's Sportfishing'.
2. The LLC will be named 'Buccaneer Adventures, LLC'.
3. Ownership in the LLC will be initially allocated to the following three (3) members according the proportions described below:
 - a. Leo - 40%;
 - b. Dan - 30%;
 - c. John - 30%.

4. The initial capital investment in the LLC contributed by each of the parties will be determined and documented as of the date of LLC formation.

5. Additional capital contributions by each party after the date of LLC formation will be documented by each of the parties and added to the LLC's books of account from time to time.

6. Should a member die or wish to sell his interest in the LLC, the remaining members shall have right of first refusal to purchase the outgoing member's interest, to be calculated at fair market value according to a method of business valuation agreed to between the parties. - *Survivor family members - Trustee will receive Quality care. But no business input at all.*

7. Leo will serve as Managing Member of the LLC.

8. As Managing Member, Leo will oversee, supervise and otherwise manage all aspects of the day-to-day affairs of the LLC's business activities.

9. Net profits generated by the LLC will be distributed on a quarterly basis to the parties, in proportion with the ownership interests described in Paragraph (3), above.

10. If there are funds available, a monthly draw in a reasonable amount (as determined by a unanimous vote of all LLC members) may be taken by any member wishing to do so, subject to the consent of all LLC members, which amount shall be deducted from the withdrawing member's quarterly draw.

11. At this time, it is anticipated that the LLC will structure its cruise schedule and rates as follows:

- a. 3 one-hour daily cruises (\$60.00/adult, \$40.00/child);
- b. 1 two-hour evening cruise (\$125.00/adult, \$45.00/child; rates include BBQ after cruise). - *Weather permitting.*

12. In the event of LLC dissolution, Leo will retain sole ownership rights to the name 'Buccaneer Adventures', 'Marauding & Mayhem on the High Seas', all other slogans associated with the LLC